

Remarks

Claims 1-33 are pending in the application and stand rejected. By this paper, claims 1, 4, 18, 19, 21, 25, 30, 31, and 33 have been amended. Claims 3, 17, 20, and 32 have been canceled.

The drawings were objected to for failing to comply with 37 CFR 1.84(p)(5). The applicants have amended claim 4 to show element 150, mentioned on page 8, last line, as suggested by the Examiner.

The specification was objected to due to a number of informalities. The applicants have amended the specification to correct the informalities per the Examiner's suggestions.

Claims 17, 19, and 30 were likewise objected to because of various informalities. The applicants have amended claims 19 and 30 as requested by the Examiner and have canceled claim 17.

Claims 35, 36, and 37 were misnumbered and have been renumbered as claims 31, 32, and 33, respectively. In addition, the incorrect dependencies of claims 31 and 33 have been corrected.

Claims 1-16 and 20-24 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Specifically, the Examiner noted that claim 1 recites "the file," which lacks sufficient antecedent basis. Claim 1 has been amended to recite "the digital audio data" rather than "the file."

The Examiner also stated that the term "near" renders claims 3 and 20 indefinite. Canceled claims 3 and 20, which have been incorporated into claims 1 and 18, respectively, now recite:

if the level of sound at a track edge between a first track and a second track is not below the specified threshold, then including the first and second tracks in the same segment; and

if the level of sound at a track edge between a third track and a fourth track is below the specified threshold, then including the third and fourth tracks in separate segments.

Support for this amendment is found in the second sentence of paragraph [0025]. The specification refers to a “track edge” to denote the boundary between two adjacent tracks. According to the specification, the “division will occur at every track edge except at those edges where sound levels are maintained above a threshold.” Thus, if the level of sound at a track edge (*i.e.*, near a point where a first track ends and a second track begins) is not below the specified threshold, the tracks are included in the same segment. Conversely, if the level of sound at a track edge between two tracks is below the specified threshold, the tracks are included in separate segments.


The applicants wish to thank the Examiner for the indication that claims 3, 20, and 32 include patentable subject matter. These claims have been incorporated into their respective base claims, *i.e.*, claims 1, 18, and 30. In addition, similar limitations have been incorporated into independent claims 18 and 25. Thus, the applicants respectfully submit that claims 18 and 25 are allowable for at least the same reasons as those specified by the Examiner in the Office Action.

In view of the foregoing amendments, the applicants respectfully submit that claims 1, 2, 4-16, 18, 19, 21-31, and 33 are in condition for allowance. A Notice of

Allowance is respectfully requested. If any issues remain that can be resolved in a telephone interview, the Examiner is invited to contact the undersigned at the telephone number provided below.

Respectfully submitted,

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